

BARRY J. PORTMAN  
Federal Public Defender  
ELIZABETH M. FALK  
Assistant Federal Public Defender  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Telephone: (415) 436-7700  
Counsel for Defendant MAYS

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,

v.

NICOLE MAYS,  
Defendant.

No. CR 07-0295 MAG

JOINT PRETRIAL CONFERENCE  
STATEMENT

Pretrial Conference Date: April 1, 2008  
Time: 2:00 p.m.  
Court: The Honorable Elizabeth D.  
Laporte

On March 14, 2008, the parties met and conferred regarding trial in the upcoming matter. Defendant Nicole Mays hereby sets forth the parties' joint position on the following matters, as required by Local Rule 17.1.1:

- (1) **Disclosure of Statements and Reports;** the United States has submitted all prior statements and reports of the testifying witness Sergeant Thomas Hart to the defendant. The United States is checking to see if Officer Robert Whalen wrote any reports or issued any statements in connection with this case. As to the defense witnesses, at this time defendant Mays is not aware of any prior statements made by any witness she plans to call in her case-in-chief. Ms. Mays may produce an expert witness report to the government in advance of trial, and may also notice an expert

1 witness prior to trial. It is Ms. Mays' hope and intention that the expert testing will be  
2 concluded and the expert report will be produced prior to the Pretrial Conference on  
3 April 1, 2008 if Ms. Mays plans to call the expert witness at trial.

4 (2) **Grand Jury Testimony:** As this case is a misdemeanor, grand jury testimony is not  
5 an issue.

6 (3) **Disclosure of Exculpatory Evidence:** The government attests that it has, and will  
7 continue to comply with *Brady*, *Giglio* and *Agurs*.

8 (4) **Stipulations:** The parties hereby notify the Court that defendant Mays will enter into  
9 the following stipulations with the government: a) chain of custody of the evidence,  
10 including the controlled substances, and b) that the substances identified by Officer  
11 Hart on direct examination are heroin and marijuana. As the United States Code  
12 defines marijuana and heroin as Schedule II controlled substances, Ms. Mays believes  
13 that a further stipulation on that front is unnecessary; the jury instructions in this  
14 matter should refer to the controlled substances by their actual names to avoid  
15 confusion of the issues before the jury.

16 (5) **Interpreters:** Interpreters are not an issue.

17 (6) **Dismissal of Counts:** The government intends to proceed on both counts against Ms.  
18 Mays. Defendant Mays has not noticed any Rule 12 defenses.

19 (7) **Joinder:** Joinder is not an issue.

20 (8) **Identification of Informers, Lineups, Etc:** Not at issue.

21 (9) **Pretrial Exchange of Witness Lists:** The government has noticed three witnesses.  
22 One witness will be eliminated due to the defendant's stipulation.

23 (10) **Pretrial Exchange of Documents and Exhibits:** The government has agreed to  
24 provide advance copies of photographs and documents it intends to introduce as  
25 exhibits at trial. The United States has also agreed to allow defense counsel to view  
26 the physical evidence prior to trial. At this time, the defendant does not anticipate

1 offering any documentary or physical evidence at trial during her case-in-chief.

2 (11) **Resolution of Objections to Exhibits:** The defendant has reviewed the government's  
3 Trial Brief that lists seven (7) proposed exhibits for trial. Ms. Mays has no objection  
4 to these exhibits being admitted at trial, provided that the government produces copies  
5 of these exhibits and/or agrees to a defense viewing of the exhibits prior to trial.

6 (12) **Controverted Points of Law Likely to Arise at Trial:** At this time, the parties are  
7 not aware of controverted points of law between them.

8 (13) **Scheduling of the Trial:** Trial is scheduled to begin Thursday, April 24, 2008. The  
9 parties still anticipate a two-day period for testimony and argument.

10 (14) **Voir Dire and Jury Instructions:** Pursuant to the Court's Pretrial Order, the parties  
11 will separately file a Voir Dire Question List that includes proposed questions by the  
12 government and the defendant. The parties will also separately file Joint Proposed  
13 Jury Instructions, and each party will separately file instructions on which the parties  
14 cannot agree.

15 (15) **Additional Matters:** None known to either party at this time.

16  
17 Respectfully submitted,

18  
19 BARRY J. PORTMAN  
20 Federal Public Defender

21 /S/

22 ELIZABETH M. FALK  
23 Assistant Federal Public Defender  
24  
25  
26